

The Retailers' Occupation Tax does not apply to sales of tangible personal to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. See 86 Ill. Adm. Code 130.340. (This is a GIL).

July 23, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated June 18, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The objective of this letter is to request an informal ruling on the taxability for sales tax purposes of maintenance and repair services performed by COMPANY for its customers in the state of Illinois.

COMPANY operates a repair station in CITY, Illinois. COMPANY provides maintenance and repair services for large commercial airlines. Principal customers include COMPANY1, COMPANY2 and COMPANY3. The maintenance and repair work performed by COMPANY for COMPANY1 and COMPANY2 include the use of replacement parts and repair services labor (the 'Repair Services') on aircraft cargo and cabin interior equipment i.e. cargo containers, galley equipment and avionics equipment. Cargo containers (also referred to as 'Unit Load Devices' or 'ULDs') carry commercial freight, US Mail and, on occasion passenger luggage and are loaded into the cargo hold of the aircraft. Galley equipment (i.e. food and beverage carts) are used on the aircraft by flight attendants to serve meals and beverages to passengers. Avionics equipment includes telephones that are permanently installed in the seat back or consoles of seats on the aircraft.

Recently, COMPANY received a Sales Tax Exemption Certificate (the 'Certificate') from COMPANY1, a copy of which is attached for your reference. Based on the Certificate, COMPANY1 has requested that COMPANY not charge Illinois sales tax on replacement parts used in the repair process and the associated labor in connection with the repair of cargo containers. The Certificate certifies COMPANY1 as an interstate carrier for hire that holds Air Carrier Operating Certificate Number 25 issued by the US Department of Transportation. The Certificate specifically states that purchases from COMPANY are exempt from Illinois Sales and Use Tax pursuant to Regulations Title 86 Part 130.304(b), the Rolling Stock Exemption. The Retailers'

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Occupation Tax Act provides an exemption for tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce provided the carrier moves in interstate commerce on a regular and frequent basis.

Your assistance is requested on the following three matters. First, please confirm whether the above Certificate is sufficient basis for COMPANY to stop charging Illinois Sales Tax on Repair Services performed in connection with maintenance and repair of aircraft cargo and cabin interior equipment. Second, if the specific regulations cited in the Certificate are not the correct basis for terminating the billing of Illinois Sales Tax, are there any other applicable exemptions which would apply to Repair Services COMPANY is providing to its customers. Lastly, is there a difference in sales tax treatments between spare parts used in the repair process, labor, and transport services?

If you have any question regarding this matter, please contact me at ####. We will contact you on or about June 24, 1999 to confirm receipt of this letter as well as the timing of your response. In the meantime, if you have any questions or need additional information, please do not hesitate to contact me.

Thank you in advance for your assistance with this matter.

The Retailers' Occupation Tax does not apply to sales of tangible personal to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. See 86 Ill. Adm. Code 130.340, enclosed. In addition, under the Service Occupation Tax Act, "sale of service" does not include a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce. See the enclosed copy of 86 Ill. Adm. Code 140.201(e)(4). The rolling stock must move in interstate commerce on a regular and frequent basis.

In order to claim the exemption, retailers and servicemen must obtain a properly executed exemption certification from the purchaser and retain this certification in their books and records. Exemption certifications must comply with the requirements of subsection (e) of Section 130.340. Form RUT-7, Rolling Stock Certification (copy enclosed), may be used to provide the required certification to document the rolling stock exemption. A carrier must be recognized as an interstate carrier for hire by the Federal Highway Authority, which assumed this authority from the Interstate Commerce Commission, or a carrier must certify that it is a type of interstate carrier for hire that is not required by law to be so recognized as an interstate carrier for hire by the

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Federal Highway Authority. If the carrier is a type that is subject to regulation by some other Federal Government regulatory agency, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption.

Please note that it is not the type of item that determines whether or not it qualifies as rolling stock, rather how the item is used by a qualifying interstate carrier. Not all items of tangible personal property used on an interstate carrier for hire qualify for the rolling stock exemption. The exemption is applicable to equipment or parts only if they become a component part of qualifying rolling stock and to equipment which, though not physically incorporated, is dedicated to a particular qualifying carrier and participates directly in the transportation process.

Thus, oil, grease, parts, belts, lights, transmission fluids, paint, filters, hoses, and seats generally qualify for the exemption since these products become a physical component part of the qualifying rolling stock. Fuel, flares, cleaners, paint supplies, and tools do not generally qualify for the exemption because the regulation provides that "the exemption does not apply to fuel nor jacks or flares or other items that are used by interstate carriers for hire in servicing the transportation vehicles, but that do not become a part of such vehicles, and that do not participate directly in some way in the transportation process." See Section 130.340(b).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.